

AMENDED IN SENATE MAY 24, 2005

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 6, 2005

SENATE BILL

No. 995

Introduced by Senator Florez

(Principal coauthor: Senator Denham)

(Principal coauthors: Assembly Members Jerome Horton and
Negrete McLeod)

**(Coauthors: Senators Ducheny, Dutton, Escutia, Figueroa,
Hollingsworth, Margett, Runner, and Soto)**

(Coauthors: Assembly Members Benoit, Bermudez, Bogh, Dymally,
Klehs, Koretz, Oropeza, Plescia, Strickland, and Wyland)

February 22, 2005

An act to amend Section 17133 of the Revenue and Taxation Code,
relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 995, as amended, Florez. Tax-exempt bonds for tribal nations.

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the amount of the taxpayer's taxable income for the taxable year, but excludes certain items of income from the computation of tax. That law, in conformity with federal income tax laws, exempts from tax interest on bonds issued by this state or a local government in this state.

This bill would, in conformity with federal income tax laws, additionally exempt from taxation interest on bonds issued by a federally recognized Indian tribal government located in this state, but only if specified requirements are met.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17133 of the Revenue and Taxation
2 Code is amended to read:
3 17133. (a) Income which this state is prohibited from taxing
4 includes interest on bonds issued by this state or a local
5 government in this state. In addition, interest on bonds issued by
6 a federally recognized Indian tribal government located in this
7 state shall be exempt from personal income taxes to the extent
8 that the interest, at the time the bonds are issued, is excluded
9 from federal gross income under Section 103 of the Internal
10 Revenue Code, but only if all of the following requirements are
11 met:
12 (1) The tribe adopts an environmental ordinance providing for
13 the preparation, circulation, and consideration by the tribe of
14 environmental impact reports concerning potential
15 off-reservation environmental impacts of any project to be
16 commenced. The ordinance may include any ordinance adopted
17 prior to the effective date of the act adding this ~~section~~
18 *paragraph*. In fashioning the environmental protection
19 ordinance, the tribe shall make a good faith effort to incorporate
20 the policies and purposes of the National Environmental Policy
21 Act and the California Environmental Quality Act, as set forth in
22 Division 13 (commencing with Section 21000) of the Public
23 Resources Code, consistent with the tribe's governmental
24 interests. For purposes of this section "project" means an
25 expansion or any significant renovation or modification of an
26 existing tribal facility, or any significant excavation,
27 construction, or development associated with a tribal project or
28 proposed project, and the term "environmental impact reports"
29 means any environmental assessment, environmental impact
30 report, or environmental impact statement, as the case may be.
31 (2) Pursuant to the environmental ordinance, the tribe shall do
32 all of the following prior to commencement of a project:
33 (A) Inform the public of the planned project.

1 (B) Take appropriate actions to determine whether the project
2 will have any significant adverse impacts on the off-reservation
3 environment.

4 (C) For the purpose of receiving and responding to comments,
5 submit all environmental impact reports concerning the proposed
6 project to the State Clearinghouse in the Office of Planning and
7 Research and the board of supervisors in the county in which the
8 project is located, for distribution to the public.

9 (D) Consult with the board of supervisors of the county or
10 counties within which the tribe's project is located, or is to be
11 located, and, if the project is within a city, with the city council,
12 and if requested by the county board or council, as the case may
13 be, meet with them to discuss mitigation of significant adverse
14 off-reservation environmental impacts.

15 (E) Meet with and provide an opportunity for comment by
16 those members of the public residing off-reservation within the
17 vicinity of the project such as might be adversely affected.

18 (3) During the planning of a project, the tribe shall do both of
19 the following:

20 (A) Keep the county board or council, as the case may be, and
21 potentially affected members of the public apprised of the
22 projects progress.

23 (B) Make good faith efforts to mitigate any and all such
24 significant adverse off-reservation environmental impacts.

25 (4) The proceeds from the bonds may be used to pay for any
26 onsite mitigation costs, and mitigation costs for off-reservation
27 environmental impacts to the extent required by the tribe's class
28 III gaming compact with this state, associated with projects
29 funded from the proceeds from the bonds.

30 (5) Except as provided in paragraph (4), the proceeds from the
31 bonds shall be used only for projects on a tribe's reservation.

32 (b) The determination of whether a bond is issued by this state,
33 a local government in this state, or a federally recognized Indian
34 tribal government in this state shall be made without regard to (1)
35 the source of payment of that bond or the security for that bond,
36 public or private, and (2) whether or not public improvements are
37 financed.

38 (c) If, at any time following the original issuance of a bond,
39 there is a separation in ownership between the bond and any right
40 to receive interest on the bond (whether or not evidenced by a

1 coupon), payments or accruals on that stripped bond and stripped
2 coupon shall be treated in a manner consistent with Section
3 1286(d) of the Internal Revenue Code.

4 ~~(d) It is the intent of the Legislature that, whatever the federal~~
5 ~~government considers tax-exempt, the state shall accept as the~~
6 ~~same criteria for tax-exempt. It is the further intent of the~~
7 ~~Legislature, in conformity with federal law, that any bonds issued~~
8 ~~pursuant to this section shall only be used to finance essential~~
9 ~~governmental functions and may not be used to finance gaming~~
10 ~~or gaming activities.~~

11 *(d) It is the intent of the Legislature that, with respect to the*
12 *interest on bonds issued by federally recognized Indian tribal*
13 *governments, whatever the federal government considers*
14 *tax-exempt, the state shall accept the same criteria for*
15 *tax-exempt.*

16 *(e) (1) Tax-exempt bonds issued pursuant to this section shall*
17 *only be used to finance an essential governmental function.*

18 *(2) For purposes of this section, “essential governmental*
19 *function” shall have the same meaning as defined by Section*
20 *7871(e) of the Internal Revenue Code and the regulations*
21 *promulgated thereunder.*

22 *(f) Tax-exempt bonds issued pursuant to this section shall not*
23 *be used to finance gaming or gaming activities.*

24 SEC. 2. This act provides for a tax levy within the meaning of
25 Article IV of the Constitution and shall go into immediate effect.